

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RICARDO SEBASTIANO MAZZARINO,
Plaintiff,

v.

CIVIL ACTION NO. 21-11516-MPK

MASSACHUSETTS STATE LOTTERY
COMMISSION, et al.,
Defendants.

ORDER

November 9, 2021

KELLEY, U.S.M.J.

Pro se plaintiff Ricardo Sebastiano Mazzarino, who represents that he is a civilly committed person confined at the Massachusetts Treatment Center, has filed a complaint in which he alleges that the Massachusetts State Lottery Commission and its officers unlawfully excluded him from participating in the Commonwealth's Vax Million Give Away lottery. Mazzarino has also filed motions for leave to proceed in forma pauperis and for the appointment of counsel.

Upon review of the Mazzarino's filings, the Court hereby orders:

1. The motion for leave to proceed in forma pauperis [ECF No. 3] is GRANTED.
2. The Clerk shall provide Mazzarino with the form for Consent/Refusal of Magistrate Judge Jurisdiction and the instructions for that form ("consent package").
3. The Clerk shall issue summonses as for all defendants.
4. Mazzarino is responsible for serving the summonses, complaint, the consent package, and this order on the defendants.

5. Because the Mazzarino is proceeding in forma pauperis, he may elect to have service completed by the United States Marshals Service (“USMS”). If Mazzarino chooses to have service completed by the USMS, he shall provide the agency with all papers for service and a completed USM-285 form for each defendant. The USMS shall complete service as directed by Mazzarino with all costs of service to be advanced by the United States. The Clerk shall provide Mazzarino with forms and instructions for service.

6. Mazzarino shall have 90 days from the date of the issuance of the summonses to complete service. Failure to complete service within 90 days may result in dismissal of the action. See Fed. R. Civ. P. 4(m); Local Rule 4.1 (D. Mass.).

7. The parties shall indicate their consent or refusal to the final assignment of this case to the magistrate judge by completing and separately filing the form entitled “Notice to Parties in Pro Se Prisoner Litigation Cases,”¹ which is included in the consent package. The form must be filed in paper form and clearly marked “DO NOT SCAN.” While consent to the final assignment of the case to the magistrate judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing consent, each party must submit the form indicating their consent or refusal to consent within 30 days of receipt of this Order.

8. The motion for appointment of counsel [ECF No. 2] is DENIED without prejudice to renewal once the defendants have been served with and responded to the complaint.

¹ The Court recognizes that Mazzarino represents that he is a civil detainee rather than a prisoner, and that this distinction is relevant to his claim. For purposes of completion of the consent papers, however, the distinction simply means that a prisoner plaintiff (or other plaintiff in state custody) is not required to confer with the defendants on the issue of consent and inform the Court whether all of the parties have consented to the jurisdiction of the magistrate judge.

SO ORDERED.

/s/ M. Page Kelley
M. Page Kelley
United States Magistrate Judge